

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION**

UNITED STATES OF AMERICA

v.

JOHN JENNINGS, II

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Case No.: 3:06cr126-WHA

UNOPPOSED MOTION TO CONTINUE TRIAL

COMES NOW the Defendant, John Jennings, II, by and through undersigned counsel, Kevin L. Butler, and moves this Court for a continuance of his trial setting of December 10, 2007.¹ In support of this motion, Defendant would show:

1. Mr. Jennings is charged with using the mail (or means of commerce) to knowingly induce a person who has not attained the age of 18 to engage in sexual activity in violation of 18 U.S.C. § 2251(a). The offense conduct occurred while the defendant was living with his mother in Houston, Texas and both parties agree that at the time of the offense, Mr. Jennings had mental health/retardation limitations.²
2. Based upon the unique competency, mental and psychiatric issues presented in this case , government counsel and undersigned counsel have worked over the last month to formulate a resolution of the case which, in addition to incarceration, involves the placement of Mr. Jennings in some form of treatment facility near his residence in Houston, Texas.

¹ Undersigned counsel is aware that this Court wishes to resolve this case fairly, efficiently and effectively. Multiple continuances have been requested in this case because the nature of the defendant and his out of state residence makes a resolution of the case unique and complex, not for purposes of unnecessary delay.

² The government is not agreeing that a downward departure for diminished capacity is warranted or that an insanity defense is justified.

3. If acceptable to the Court, this resolution may involve placement of Mr. Jennings in the Jackson Hinds Gardens facility run by the Housing Corporation of Houston, Texas. Jackson Hinds Gardens is an apartment facility that houses single male persons with special needs (mental health and social adjustment issues). Some of the services that are available to residents of the facility are substance abuse treatment, mental health/mental retardation services, Goodwill for job training and searches, a medical clinic, and a food stamp/food assistance program. Ms. Gail Cote, the director of the Jackson Hinds Gardens facility, has also advised the defense that if there are any other services that are needed that have not been listed, she and her staff would locate persons or facilities to fulfill the need.
4. As this facility is located outside of this judicial district and government counsel has limited information regarding the facility, government counsel has not specifically agreed to placement at this facility and reserves the right to argue for some other sentencing disposition. However, government counsel is presently working with the United States Probation Office in conducting a background investigation of the Jackson Hinds Gardens facility.
5. Both parties agree that if this or a similar facility can provide Mr. Jennings with necessary developmental assistance, mental health counseling and behavioral modification, it would greatly reduce the government and this Court's concern regarding the potential of Mr. Jennings engaging in any further criminal conduct.
6. For the reasons set forth above, it is anticipated that the plea agreement entered in this case and presented to this Court for review will be unique and complex. However, because the necessary investigation of the Jackson Hinds Gardens facility can not be completed on or

before the presently scheduled trial date, it is in the interest of justice to continue trial. This continuance will also allow the court adequate time to review the plea agreement.

7. The United States, through Assistant United States Attorney Susan Redmond, does not oppose the granting of a continuance.
8. Requests for a continuance of trial are addressed to the sound discretion of the trial court. *United States v. Darby*, 744 F.2d 1508, 1521 (11th Cir. 1984), reh. denied 749 F.2d 733, cert. denied 471 U.S. 1100 (1985). Additionally, pursuant to 18 U.S.C. §§ 3161 (h)(1)(I); (h)(8)(B)(I); 3161(h)(8)(B)(ii), and 3161(h)(8)(iv) it is in the interest of justice and within the discretion of the trial court to continue trial of this matter when the complex nature of a case necessitates granting the parties additional time to prepare the negotiated plea agreement to be considered by the court.

WHEREFORE, for the foregoing reasons, Mr. Jennings respectfully requests that his trial date be continued from the presently scheduled date of December 10, 2007.

Dated this 26th day of November, 2007.

Respectfully submitted,

s/ Kevin L. Butler
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CERTIFICATE OF SERVICE

I hereby certify that on November 26, 2007, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

Susan Redmond, Esquire
Assistant United States Attorney
One Court Square, Suite 201
Montgomery, Alabama 36104

Respectfully submitted,

s/ Kevin L. Butler
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